

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 2896 of 2007(T)

AGAINST THE ORDER DATED IN OS.461/1995,O.S 635/95,
OS.191/96 OF MUNSIF COURT,ALUVA.

PETITIONER:

P. NIRMALA D/O.LATE SREEDHARA MENON,
AGED 46, APPAPARAMBATH HOUSE,
SREEKANDATH ROAD, KOCHI-16.

BY ADV. SRI.P.K.SOYUZ,
SRI.P.MARTIN JOSE.

RESPONDENTS:

1. NEELAKANDAN KARTHA,
KALATHIL SINDHU BHAVAN, EDATHALA KARA,
ALUVA EAST VILLAGE, ALUVA TALUK.
2. JAYAKUMARI, W/O.NEELAKANDAN KARTHA,
KALATHIL SINDHU BHAVAN, EDATHALA KARA,
ALUVA EAST VILLAGE, ALUVA TALUK.
3. SUBHADRA KUNJAMMA, VRINDAVAN KOTTA,
KALATHIL, EDATHALA KARA,
ALUVA EAST VILLAGE.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/06/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C). NO.2896/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PLAINT IN O.S. NO. 461/1995 OF MUNSIFF'S COURT, ALUVA.

EXT.P.2: COPY OF THE PLAINT IN O.S. NO. 635/1995 OF MUNSIFF'S COURT, ALUVA.

EXT.P.3: COPY OF THE PLAINT IN O.S. NO. 191/1996 OF MUNSIFF'S COURT, ALUVA.

EXT.P.4: COPY OF THE COMMISSION REPORT FILED BY ADVOCATE COMMISSIONER.

EXT.P.4.A: COPY OF THE SKETCH FILED BY ADVOCATE COMMISSIONER.

EXT.P.5: COPY OF THE ORDER IN I.A. NO. 1998/2003 DTD. 05/02/2005.

EXT.P.6: COPY OF THE JUDGEMENT IN W.P.(C). N. 7771/05 DTD. 09/03/2005.

EXT.P.7: COPY OF THE RECTIFICATION DEED NO. 5531/2003 DTD. 29/12/2003.

EXT.P.8: COPY OF THE AMENDMENT PETITION I.A. NO. 6/2004 FILED IN O.S. NO. 191/1996.

EXT.P.9: COPY OF THE ORDER IN AMENDMENT PETITION I.A. NO. 3/2004 DTD. 15/12/2006.

EXT.P.10: COPY OF THE ORDER IN AMENDMENT PETITION I.A. NO. 5/2004 DTD. 15/12/2006.

EXT.P.11: COPY OF THE ORDER IN AMENDMENT PETITION I.A. NO. 6/2004 IN O.S. NO. 191/1996 DTD. 15/12/2006.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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W.P.(C) No.2896 OF 2007

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Dated this the 7th day of June, 2007

JUDGMENT

This writ petition is one for amendment of the written statement. The amendment is sought with respect to the extent of the property. There was an application for setting aside the plan and report. It has been remitted and there is no complete plan or report regarding the measurement of the property. The court found that under such a situation amendment need not be allowed. There is no mistake committed by the court below and the order under challenge is not liable to be set aside. But, at the same time it has to be stated that when the Commissioner submits a plan and report and there is necessity to carry out the amendment either in the plaint or in the written statement in the light of the facts submitted by the Commissioner, the plaintiff or defendants are at liberty to move the court for amendment of the plaint or writ statement as the case may be and the court shall consider the same after notice to the parties.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-